

SUBCHAPTER XVI—CHEMICAL FACILITY ANTI-TERRORISM STANDARDS

TERMINATION OF SUBCHAPTER

For termination of subchapter by section 5 of Pub. L. 113–254, see Effective and Termination Dates note set out under section 621 of this title.

§624. Civil enforcement

(c) Emergency orders

(1) In general

Notwithstanding subsection (a) or any site security plan or alternative security program approved under this subchapter, if the Secretary determines that there is an imminent threat of death, serious illness, or severe personal injury, due to a violation of this subchapter or the risk of a terrorist incident that may affect a chemical facility of interest, the Secretary—

(A) shall consult with the facility, if practicable, on steps to mitigate the risk; and

(B) may order the facility, without notice or opportunity for a hearing, effective immediately or as soon as practicable, to—

(i) implement appropriate emergency security measures; or

(ii) cease or reduce some or all operations, in accordance with safe shutdown procedures, if the Secretary determines that such a cessation or reduction of operations is the most appropriate means to address the risk.

(2) Limitation on delegation

The Secretary may not delegate the authority under paragraph (1) to any official other than the Under Secretary responsible for overseeing critical infrastructure protection, cybersecurity, and other related programs of the Department appointed under section 113(a)(1)(H) of this title.

(3) Limitation on authority

The Secretary may exercise the authority under this subsection only to the extent necessary to abate the imminent threat determination under paragraph (1).

(4) Due process for facility owner or operator

(A) Written orders

An order issued by the Secretary under paragraph (1) shall be in the form of a written emergency order that—

(i) describes the violation or risk that creates the imminent threat;

(ii) states the security measures or order issued or imposed; and

(iii) describes the standards and procedures for obtaining relief from the order.

(B) Opportunity for review

After issuing an order under paragraph (1) with respect to a chemical facility of interest, the Secretary shall provide for review of the order under section 554 of title 5 if a petition for review is filed not later than 20 days after the date on which the Secretary issues the order.

(C) Expiration of effectiveness of order

If a petition for review of an order is filed under subparagraph (B) and the review under that paragraph is not completed by the last day of the 30-day period beginning on the date on which the petition is filed, the order shall vacate automatically at the end of that period unless the Secretary determines, in writing, that the imminent threat providing a basis for the order continues to exist.

(d) Right of action

Nothing in this subchapter confers upon any person except the Secretary or his or her designee a right of action against an owner or operator of a covered chemical facility to enforce any provision of this subchapter.

(Pub. L. 107–296, title XXI, §2104, as added Pub. L. 113–254, §2(a), Dec. 18, 2014, 128 Stat. 2912.)